

Erda City Council Minutes

6/22/2023 – 7:00 pm

Tooele County Building - Auditorium

View-Only Live Stream on Youtube: <https://tinyurl.com/2p8jfjfnx>

1. Call to Order 7:05 PM
2. Roll Call
 - a. Terry Miner, Kael Martin, Jess Bird, Craig Smith, Scott Droubay
 - b. Jennifer Poole -City Recorder, John Brems-City Attorney, Rachelle Custer-City Planner
3. Pledge
 - a. Jess led the pledge of allegiance
4. Public Comment
 - a. Chair Opened public comment
 - b. Cory Warnick- Being on the PID has been an experience I appreciate the opportunity. Everyone has put a lot of time and effort into making this as best as it can be. But to make it clear it does not mean that I endorse it. We've been sold on the idea that Oquirrh Point is the solution for wanting to have more affordable housing. To me this turns into the rob from the poor now and gives to the rich. I don't think it's just or fair to push this tax debt onto our kids. We are pushing this tax burden onto others, on the vote when this happens in 2 weeks I hope you vote no, and that you repeal the PID policy.
 - c. Michael Jensen- I want to give an opposite view. I don't look at it as a tax, it's a tool. I want to buy commercial property in Erda. The chances of that happening without this is slim to none. I do understand that I will have to pay for a portion of that PID, so that I can buy a lower price now. If the developer doesn't get a PID it's gonna come out of the pocket of the person purchasing the home. Work with them help it work out, please vote for the PID, because once you buy it it's not a tax, it's a repayment of a bond. So we can get more commercial here and the infrastructure that is needed.
 - d. Aubrey Smith- This is more a question just to make sure I understand. This PID and these houses and the prices the PID only affects only those people is the way I understand it. That being said Kael, or others if they don't want to pay for that PID, they can buy somewhere else. I just want to know if the prices will be affected outside of that area.
 - e. Craig moved to close public comment, Kael seconded the motion
 - f. **Voting unanimous to close public comment**
 - g. **Public Comment Closed**
5. Approve meeting minutes from 6-08-23
 - a. Jess moved to approve the meeting minutes from 6-08-23, Terry seconded the motion.
 - b. Voting was unanimous to approve the meeting minutes from 6-08-23
 - c. **Meeting Minutes from 6-08-23 Approved**

6. Sheriff's Report
 - a. I have some reports from April and May. In April there were 78 calls, 11 arrests, and 37 citations. May had 80 calls, 7 arrests, and 30 citations. Items of significance in April on the 8th a suspicious Male was arrested for warrants out on him and found in possession of Heroin, we also had 8 juvenile arrests/referrals for various crimes on Bronzewood. Items of significance in May were vandalism on Bates Canyon; there will be extra patrols there. Also there was theft from a storage unit and 4 arrests/referrals for various crimes on Bronzewood.
7. Committee Assignments Report and Discussion
 - a. Finance (Miner/Droubay)
 - i. Treasurer Report
 - a. Terry-Part of the budget was to accept the certified tax rate of the county .000895, we approved that rate. As for deposits since the 9th we have business licenses \$960, building permits \$10,133.50 for a total \$11,093.50. Checks written: clerks salary \$1,007.56, renewal for liability insurance \$4,341, membership to the Utah League of Cities and Towns \$2,110.17, Ensign Engineering \$7,936.25, and to renew the fire station \$4,800. For a total of \$20,194.91
8. Consideration of RESOLUTION 23-16 Re-Appointing Planning Commission Members Kathleen Mallis and Diane Sagers for a 4 year term.
 - a. Jess- They've done a wonderful job and they've both accepted a renewal and are willing to serve another 4 years.
 - b. Craig- I appreciate the work and time they put in
 - c. Jess moved to adopt Resolution 23-16, Craig seconded the motion
 - d. **ROLL CALL VOTE: Scott-Yes, Craig-Yes, Jess-Yes, Kael-Yes, Terry-Yes**
 - e. **Voting was unanimous 5-0 RESOLUTION 23-16 PASSED**
9. Consideration of ORDINANCE 23-06 Regulating, Preventing, and Banning the Discharge of Fireworks within certain areas of the city
 - a. Jess-I believe this is a carbon copy of last year, with the same regulations and area allowed.
 - b. Jess moved to approve Ordinance 23-06, Craig seconded the motion
 - c. **ROLL CALL: Terry-Yes, Kael-Yes, Jess-Yes, Craig-Yes, Scott-Yes**
 - d. **Voting was unanimous 5-0 ORDINANCE 23-06 PASSED**
10. Consideration of ORDINANCE 23-05 Rezone Request (REZ 02-2023) Parcel IDs: 01-411-0-0002 Property Address: approximately 5300 North SR 36. The request is to rezone 2 acres from A-20 to CG.
 - a. Rachele- Ms. Adams is requesting to rezone from A-20 to Commercial General, the property is only 2 acres. There is currently 1 commercial business, there is a home on the property that will become a legal non conforming property. The applicant did send in a letter today stating they understood it would be a legal non conforming home and no further additions can be made to the home.
 - b. Craig moved to adopt the Ordinance 23-05 rezoning 2 acres from A-20 to Commercial General, with the condition the owner submit a letter that the home will be a non-conforming use and can not be expanded. Jess seconded the motion.

- c. **ROLL CALL VOTE: Scott-Yes, Craig-Yes, Jess-Yes, Kael-Yes, Terry-Yes**
- d. **Voting was unanimous 5-0 ORDINANCE 23-05 Rezoning property from A-20 to Commercial General PASSED**

11. Oquirrh Point PID Governing Documents Discussion

- a. John-We prepared a summary for you to look at, based upon the current configuration of the governing documents, it raised issues for you to decide. Then Marcus will run through some things.
- b. Aaron Wade with Gilmore Bell- We've been working on the district advisory committee together. The biggest thing to talk about is the proposed MIL levee. Also if the council supports a tax rate and what would you consider for approval. The PID can only tax property within its boundaries. It's not going to affect your long term residents. The initial boundaries are small and they will expand them to match their phasing plans. The requirements are to be included in the PID; they must have a development agreement with Erda City. Also the annexation can only occur if every property owner signs a consent.
- c. Craig- I also would like it if someone chose not to come into the PID, but they wanted to connect into the infrastructure that came from the PID. They would have to pay for a portion to connect to the infrastructure.
- d. Aaron- That would be the hope there are ways to make sure that happens. That is some background on who would and won't be taxed. Another issue John wanted to flag. Is whether or not the council would allow the taxing or MIL levee of residential.
- e. Jess- I believe that in the amended PID Policy we allowed that but there is a cap on the MIL levee amount.
- f. Marcus Keller- Cruise and Associates, DA Davidson, we are here to answer any questions.
- g. Terry-What benefit does the City have in any of this?
- h. Marcus- They've discussed parks, 33rd parkway, have the commercial come in sooner. Without the PID the massive infrastructure that is needed for this area can't be done, or if it is it will be done piecemeal. It will give more supply for commercial upfront.
- i. Rep from DA Davidson-This is a financing tool in a way to help make affordable housing happen. This is a mechanism to help finance infrastructure. We've seen these tools be utilized for larger infrastructure. This is a tool for a way to help bridge the infrastructure gaps. The PID idea has been on a 400k home. We think for the monthly payment it comes out to \$92 a month in addition to that person's tax rate.
- j. Marcus- The reality is if they can get the MIL levee they can pay for the offsite improvements quicker. Any feedback you can give us, so we can make any changes, we want to work with the city.
- k. Jess- How does this stack up to the PID policy? Does it go all the way to the maximums?
- l. John- Yes it goes all the way to the maximum, this would also make it so Erda Estates and Tilby Village had to do a development agreement to be included.
- m. Jess- The MIL levee was allowed in our PID policy so they are allowed to ask for it.
- n. John- If it's commercial you could put that MIL levee into place, then in the residential bucket, they can do assessments that are paid off before the people move into the house.
- o. Aaron- This is asking for a MIL on both residential and commercial.
- p. Jess- Is there verbiage in there that restricts a MIL levee and assessment at the same time?

- q. Aaron-The assessment bond can not be passed onto the homeowner.
- r. John-We also have a provision that before they borrow so much money they have to do the improvements to 33rd parkway.
- s. Aaron- What should the limit be? I know we are not voting today but I think it would make the decision easier.
- t. Craig- My gut is they will use the MIL levee and assessment bonds. I can't see a scenario where they wouldn't . I think the MIL levee is the bigger hiccup. I know without it they will do everything they can as cheaply as possible. With the PID we can mandate the 33rd intersection be done.
- u. Marcus- That is put in their phase 1.
- v. Aaron- A few other items are the main financing tools, the other item is the CPACE assessment. It would allow commercial property owners to do energy efficient upgrades through governmental loans. The districts asked to hire their own professionals.
- w. Rep from DA Davidson- We wanted to make sure that any concerns the city council has, let us get that in the governing documents, and find a way to make this a private public partnership. We do want it to make sense for the city and the development.
- x. John- Craig remembers well that 10 percent will be moderate income housing.
- y. Craig- I think the overarching question is what will this council allow? Will they allow a MIL levee on the residential?
- z. Scott- It seems logical to me. \$92 a month for a \$400,000 home. My son built a \$400,000 home and had to pay \$75,000 for the infrastructure, this seems fair to me.
- aa. Craig-To Cory's point the developer will sell it at market value, but being in the PID will in essence lower the market value of the home.
- bb. Jess- I voted against our PID policy. The main reason was the 5 MIL on the residential. And I haven't changed my mind. It goes against what I believe. I might be able to hold my nose and vote yes if it only had a MIL on the commercial and no MIL levee on the residential side.
- cc. Kale- I would like to see the MIL levee on the residential lowered as well.
- dd. Craig- What kind of MIL levee would you think?
- ee. Kael-3 MIL
- ff. Jess- We are happy to keep the lines of communication open, and to work with you.
- gg. Jess-My concern on the affordable housing is, it's limited to whatever the Federal Government mandates.
- hh. Marcus- Let us get back to you and work with our team and work with you. Thank you for your time.
- ii. Aaron- I will work with Jennifer to get the proper noticing out for the public hearing at your next meeting.

12. Flag Pole Discussion

- a. Brady-Director of Planning for the SL city airport. -We are here to respectfully request that the requirement in the city code be upheld. We've read the code and it seems pretty clear they needed a CUP and they didn't get it. They may not have known they needed a CUP. Also they are siteing the difference between a structure and building for why this was allowed. In your packet there is a map that has 2 yellow dots. They are two aeronautical studies that determine if a structure is safe within a certain distance around the airport. The FAA issued a preliminary finding in January on the 120 ft flagpole that anything above 72 ft, was unsafe. His family didn't put in that 120 ft flag pole that was just east of their property. What they did do was the 2nds site which was a 1000 ft closer

to the runway and put up an 80 ft flagpole. The FAA came back in their report and said that anything 61 ft above the ground will result in a substantial adverse effect and is a substantial hazard. We close the airport from dusk till dawn because of this hazard. The BLM operates a firefighting base out of the Erda airport. And they won't be able to be used from dusk till dawn. That support won't be there during the night hours. I also talked to the helicopter pilots. Daytime is fine, but we've had to reroute a few times to Nephi because the airport is closed. We are putting lives in danger, we are diverting traffic and closing the runway. The other think is the Kunz family filed a complaint against us with the FAA. We are under mediation with them to get this resolved, yet the flagpole goes up. I respectfully request that the need for a Conditional Use be enforced.

- b. Craig- The FAA has 48 days to submit findings, but it's dated January 25.
- c. Brady-The FAA says that if you are erecting a flagpole you need to submit to them the plan or permit within 45 days of erecting the flagpole.
- d. Kael-If the city says we aren't going to do anything, what risk does that put the city in?
- e. Brady-I'm just a planner, I'd let the attorneys speak to that. There is a state law but signed in May, it will be required for me to come back to you to pass the ordinance to protect the airport.
- f. Scott- I always thought the forest service doesn't drop at night.
- g. Brady-They don't drop at night but they do mornings and evenings and need to make it back or leave out on time.
- h. Neil Kunz-I am here representing my mother. First I wanted to address what Brady said he is correct. I did submit a notification to the FAA. I followed the zoning ordinance. It's a notification to the FAA not getting a permit. SL city is correct. I have filed a complaint, and we are in mediation. I haven't heard from them in over 3 months. The first issue Terry brought up was zoning. The permit was sought in May of 2022 and granted in June 2022. I am asking the council to dismiss this complaint.
- i. Craig-Did you apply for a building permit or a structure permit?
- j. Neil- I did a building permit.
- k. Craig- My point is that we are splitting hairs. I am saying the 80 ft flagpole is adversely affecting them. Our code specifically calls out flagpoles needing a Conditional Use Permit if they are over 35 ft tall.
- l. John- Read the city code section 4-11. Our take is you have to have a conditional use permit for a flagpole over 35ft.
- m. Jess- We may have liability on either side of this issue.
- n. John- Salt Lake City has no ability to solve this problem. This is in Erda City. He was supposed to get the Conditional Use Permit.
- o. Jess- I believe Mr. Kunz is walking a very tight line. I think he is walking it well, I think there is a gap. 4-11 Clearly says you need a conditional use permit if you are going to exceed the height limit. I would like to see the law clearly defined. I do think the placement of the flagpole is completely irresponsible and dangerous and I would like to see it taken down as soon as possible. I hope you both can find a resolution to this as soon as possible. But I don't think we should use the city resources.
- p. Scott- My vote Brady you need to get the FAA next week to do the mediation and get this done. This is not something a new city could foresee and have to deal with this.
- q. Terry-Mine is cause and effect, the bigger hazard here is the possible loss of life if a plane hits it. Nothing outweighs the potential loss of life.
- r. Craig-I agree with Jess, they have done a good job of walking the wire, they didn't apply for the CUP and therefore should be removed.

- s. Jess- In our infancy we approved this and gave this permit.
- t. Kael- I think you need to work this out.
- u. Jess- Do you support the City taking immediate action against the Kunz family today
- v. **ROLL CALL VOTE: Scott- No, Craig-Yes, Jess- No, Kael- No, Terry-Yes**
- w. **VOTE 2-3 MOTION FAILS**

13. Council Representative Report

- a. Scott- We had a discussion last week about a fence on a right of way, I haven't gotten to speak with the owner of that fence . There is a home and a family that needs a CUP to have a mechanic shop in their home. They are moving some of the cars, they are also planning on filing for a CUP. They had a visit from the EPA. They came looking for EPA violations. On the third issue the people have become standoffish and aren't responding to me like they had been.
- b. Jess- Jed sounded very responsive to my concerns and how to fix our own potholes. My main concern is the gradual erosion of our roads. Complaints can and should be made to the Tooele County roads police department.
- c. Scott- They've applied for a grant and if they get that, it will move up projects for Erda.
- d. Craig- Me and Jess met with Rocky Mountain Power and they have a small grant. We've considered maybe giving it to the ballpark and they can do clean energy items. But before we did that, I thought we'd bring it to the council and let them decide.

14. Comments from Council Members

- a. None

15. Adjournment

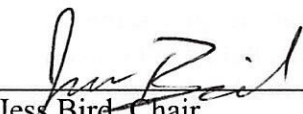
- a. Craig moved to adjourn the meeting Scott seconded the motion
- b. Voting was unanimous to adjourn the meeting
- c. **Meeting adjourned**

Note: these minutes represent a summary of the meeting and are not intended to be verbatim.

Prepared by: Jennifer Poole, Erda City Recorder

PASSED AND APPROVED by the Council this 13th day of July, 2023.

ERDA



Jess Bird, Chair

ATTEST:



Jennifer Poole, City Recorder